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SENATE

{ REPORT
No. 186

HARRY C. GOAKES

MARCH 19 (legislative day, MARCH 16), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 1822]

The Committee on the Judiciary, to which was referred the bill (H. R. 1822) for the relief of Harry C. Goakes, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill, as amended, do pass.

AMENDMENT

On page 1, line 6, strike the figure "\$3,194.61" and insert in lieu thereof "\$208.11".

PURPOSE

The purpose of the proposed legislation is to pay the sum of \$3,194.61 to Harry C. Goakes, Los Angeles, Calif., in full settlement of all claims against the United States arising out of the loss of personal property owned by him when the vessel *Rio de la Plata* sank off the coast of Mexico in August 1944. The purpose of the amendment is contained in the statement following.

STATEMENT

Mr. Goakes began his duties with the Civil Aeronautics Administration on July 5, 1941. His official station from February 1, 1944, to November 17, 1946, was Lima, Peru. At the time of his transfer to Lima, the Government shipped a part of Mr. Goakes' household furnishings from Washington, D. C., to Lima. Part of his furniture and his automobile were later stored in California.

In the summer of 1944, Mr. Goakes had his automobile and furniture shipped to him. Since he was then in Lima, it was necessary for him to have his mother, who was in California, initiate the shipment.

Because of wartime conditions, the automobile and furniture had to be shipped via the *Rio de la Plata*, an Argentine vessel, leased by W. R. Grace Co., but operated by an Argentine crew. Because of the fact that the shipment was to be made on an Argentine vessel the property could only be insured for \$1,000.

In a memorandum of a Los Angeles law firm appearing in the House report on this bill it is pointed out that it would be a waste of time and money for Mr. Goakes to pursue his claim for the value of his cargo against the shipper. Mr. Goakes did seek the return of the shipping from the Grace Line, but was unsuccessful.

The instant bill as it passed the House of Representatives would reimburse Mr. Goakes in an amount equal to the value of the property lost (\$3,560) plus the shipping charges (\$634.61), less the \$1,000 insurance allowed.

The committee feel that the amount allotted in the bill is excessive and should be reduced to reflect an award of the shipping charges for which Mr. Goakes could have been reimbursed if the goods had reached their destination.

In considering this claim, the committee is aware of the limitations on Mr. Goakes in his selection of shipping facilities and of his natural desire to have his possessions with him at his station. However, as pointed out in the report of the Department of Commerce which is appended, the Government does not normally assume responsibility for goods shipped privately by its employees abroad. Nor does the committee find any evidence that the claimant sought Government transportation for his goods and was unable to receive Government transportation for them. The Department also states, though, that had the shipment arrived at its destination, the claimant would have been entitled to reimbursement for the cost of shipping the household goods under Executive Order 8588 (automobiles are expressly excluded under this order).

Therefore, the committee is of the opinion that Mr. Goakes should be reimbursed only for that portion of his shipping charges which he could have recovered if the shipment had arrived at its destination. This is the same recommendation which the committee made in the Eighty-first Congress on a similar bill. That recommendation was adopted unanimously by the Senate.

The Department of Commerce would have no objection to the enactment of this bill.

Attached hereto and made a part of this report is the report of the Department of Commerce submitted in connection with the bill introduced in the Eighty-first Congress.

DEPARTMENT OF COMMERCE,
Washington, March 27, 1950.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: The attached report of the Department of Commerce is transmitted in accordance with your request for our comments on H. R. 3007, a bill for the relief of Harry C. Goakes.

I am advised by the Bureau of the Budget that there would be no objection to the presentation to the Congress of this report.

Sincerely yours,

C. V. WHITNEY,
Acting Secretary of Commerce.

REPORT OF THE DEPARTMENT OF COMMERCE ON H. R. 3007 FOR THE RELIEF OF
H. C. GOAKES

This bill would authorize the payment to Harry C. Goakes the sum of \$3,194.61 in settlement of his claim against the United States arising out of the loss of personal property owned by him when the vessel *Rio de la Plata* sank off the coast of Mexico in August 1944.

The personnel files of the Civil Aeronautics Administration indicate that Mr. Goakes entered on his duties with the Administration on July 5, 1941, and that his official station was Lima, Peru, from February 1, 1944, to November 17, 1946. At the time of his transfer, the Government shipped a part of Mr. Goakes' household furnishings from Washington, D. C., to Lima, Peru, travel order No. A-438. Our records indicate that he made no effort at that time to have shipped to his new station the remainder of his furniture or his automobile, which were stored in California.

In the summer of 1944, Mr. Goakes apparently found it necessary to have the automobile and the remainder of his household articles shipped from California to Lima, Peru. Since he was then in Lima, it was necessary from him to have his mother who was in California, initiate the shipment. The household articles and the automobile were shipped on an Argentine vessel, the *Rio de la Plata*, which had been leased to W. R. Grace & Co., but was operated by an Argentine crew. Because of wartime conditions, the *Rio de la Plata* was the only available vessel. We understand that because this shipment was made on an Argentine vessel the maximum amount for which this property could be insured was \$1,000. The freight charge covering the shipment was \$634.61. The shipment was a total loss when the steamship burned and sank at sea off Acapulco, Mexico, on August 18, 1944. Mr. Goakes' request of the W. R. Grace Line for a refund of the freight charge has been refused. The subject bill for relief would reimburse Mr. Goakes in an amount equal to the value of the property lost (\$3,560) plus the shipping charges (\$634.61), less the \$1,000 insurance allowed, or a total of \$3,194.61.

Payment by the Government for loss or damage to personal property belonging to officers and employees of the Government and occurring incident to their service, including the cost of transportation thereof upon change of station, is not unusual. For example, by the enactment of the Military Personnel Claims Act of 1945, approved May 21, 1945 (Public Law 67, 79th Cong.), the Congress authorized the payment of claims of military personnel and civilian employees of the War Department for loss or damage to personal property occurring incident to their service, including compensation for loss or damage to property being transported by the Government upon an official change of station.

In the case at hand, however, attention is invited to the fact that the subject shipment was not shipped by the Government but by the claimant's mother via a shipper of Mr. Goakes' own selection, it was partially insured, the shipment was at the expense of the shipper, and the Government did not exercise any control over the shipment. The Government does not normally assume responsibility for goods shipped privately by its employees abroad.

If the shipment had arrived safely in Lima, Mr. Goakes would have been entitled to reimbursement by the Government of a part of the transportation cost pursuant to Executive Order 8588, provided he had otherwise complied with the requirements of the order. This order authorizes the Government to reimburse its employees for the cost of shipping household goods upon a permanent change of station. (Since automobiles are expressly excluded by the order, Mr. Goakes could not have been reimbursed the portion of the shipping cost covering his 1939 Cadillac sedan.) However, since the shipment did not arrive at its destination, Mr. Goakes has no legal claim under the Executive order for a portion of the shipping cost.

The facts clearly indicate that there is no legal basis to substantiate Mr. Goakes' claim against the Government. There are other factors, however, which the committee might bear in mind when considering this legislation. It should be noted that the loss was not incurred as a result of any negligence on the part of claimant. Further, it should be noted that Mr. Goakes was transferred to a foreign station for the convenience of the Government during wartime when shipping was undoubtedly precarious and at a time when such assignments were very costly to personnel so transferred, particularly in view of the fact that at that time the Civil Aeronautics Administration was not authorized to reimburse employees for the cost of transporting their families to new stations. It cost Mr. Goakes approximately \$1,000 to have his family transported to Lima, Peru. In

addition, the loss of the subject shipment was particularly severe since it was necessary for Mr. Goakes to replace the items lost at the prevailing Peruvian prices which were nearly double the prices in the United States. These factors would indicate that there is some merit in Mr. Goakes' claim.

The above considered, the Department of Commerce is of the opinion that there is an equitable basis for Mr. Goakes' claim and would have no objection to favorable action thereon, provided an amount equal to the 1944 value of the claimant's car and the cost of shipping the same were deducted from the proposed award since, as indicated above, the Government under no circumstances would have borne the cost of transporting such an item incident to the subject change-of-station.

I am advised by the Bureau of the Budget that there would be no objection to the presentation to the Congress of this report.

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